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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	**Kristopher Henry Victmeier**
Application No.:	**10/774922**
Filed:	**February 9, 2004**
For:	**Process Method for Attaching Radio Opaque Markers to Shape Memory Stent**
Examiner:	**Jerrie E. Cozart**
Group Art Unit:	**3738**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No.: S63.2B-11269-US01

DECLARATION OF KRISTOPHER HENRY VIETMEIER UNDER §1.132

I, Kristopher Henry Vietmeier state:

1. I have been employed as a Mechanical Engineer with Boston Scientific since July, 1993. I have a Bachelor of Science degree in Mechanical Engineering from the University of Minnesota. I am very familiar with the structure of stents and their expansion and shape memory characteristics. I have a level of knowledge and familiarity with these that is at least equivalent to that of one of ordinary skill in the art.

2. I am the inventor of U.S. Pat. App. No. 10/774922 and I provide this Declaration in support of the patentability of the invention described therein.

3. I have been asked to comment on the presently claimed invention in U.S. Pat. App. No. 10/774922. Specifically, whether it is an advantage, in the enlarging step of claims 1 and 17, that the receptacle in the claims maintains its shape when it is enlarged while in its martensitic phase as opposed to the changing of the shape of the receptacle, as described in Mackiewicz et al. (US 2005/0060025 Al) and shown in figures 4 and 6 of Mackiewicz et al.

4. For the purpose of using stresses induced in a receptacle of a defined shape to hold an object within the receptacle, inducing the stresses in a manner that is more uniform, such as the manner claimed in claims 1 and 17 of the present invention, will result in higher retention forces than inducing the stresses in a manner that results in non-uniform or discrete strains, such as the manner described in Mackiewicz et al. (US 2005/0060025 Al) and shown in figures 6 and 7 of Mackiewicz et al., wherein the hourglass shaped opening 38 is deformed in a non-uniform manner to accept the radiopaque marker 36

5. In the expansion of a receptacle, while maintaining the original shape of the receptacle, as claimed in claims 1 and 17 of application 10/774922, uniform (or more uniform) strains are created, taking advantage of the full cross sectional area of the member for imparting forces on the object placed in the receptacle for retainment. In comparison, if the shape is deformed in a non-uniform manner, such as the manner described in Mackiewicz et al. (US 2005/0060025 Al) and shown in figures 6 and 7 of Mackiewicz et al., thereby changing its shape, lower retainment forces result. The non-uniform strain creates discrete stresses which are confined to localized areas of the shape, utilizing only a portion of the receptacle for generating retainment forces on the object.

6. As such, there is an advantage in maintaining the shape of the receptacle during the enlarging step of claims 1 and 17, over the manner described in Mackiewicz et al. (US 2005/0060025 Al) and shown in figures 6 and 7 of Mackiewicz et al. in which the shape of the receptacle is deformed in a non-uniform manner.

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7. I declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: September 12, 2006

Kristopher Henry Vietmeier